THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION No.27130 of 1997

Date: 14.02.2007

Between:
M/s. Aysha Oil Mill.

....Petitioner

And

Member Secretary, Andhra Pradesh State Electricity Board, Quilla Road, Nizambad and others.

....Respondents

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WRIT PETITION No.27130 of 1997

O R D E R:

One M/s. Rajeshwari Oil Mills established an industrial unit in Shed No.E-21, Sarangapur, Nizamabad, by obtaining loan from Andhra Pradesh State Financial Corporation. Since the loan was not repaid, the Corporation brought the unit for sale. The petitioner purchased the same in the year 1996. By the time the petitioner purchased the unit, there were accumulated arrears of consumption charges by the previous owner. Therefore, the power supply was disconnected. The petitioner made efforts to get the power supply restored. W.P.No.951 of 1997 and thereafter, a Contempt Case were filed in this Court. Ultimately, the power supply was restored on 05.10.1997.

The respondents demanded the development charges etc., to the tune of Rs.1,21,900/-, from the petitioner, through a notice dated 04.10.1997. The same

is challenged in this writ petition. A direction is sought to the effect that the respondents cannot recover any arrears of the previous owner from the petitioner.

On behalf of the respondents, a counter affidavit is filed, furnishing the particulars of the dues of consumption charges left unpaid by the previous owner. It is stated that the demand against the petitioner accords with the conditions of agreement. The respondents contend that once the petitioner had chosen to draw power supply through the service connection obtained by the previous owner, it is under obligation to clear the arrears also.

Heard the learned counsel for the petitioner and the learned Standing Counsel for the respondents.

The petitioner is the purchaser of an industrial unit in an auction held by the Andhra Pradesh State Financial Corporation. In ***Isha Marbles vs. Bihar State Electricity Board***[1], the Supreme Court categorically held that the purchaser of an industrial unit cannot be held liable to pay the arrears left unpaid by the previous owner of the unit. It is left open to the purchaser of a unit to obtain separate connection and in such an event, the supplier of power cannot insist on clearance of arrears. Where, however, the subsequent purchaser intends to continue the same

service connection, he would be entitled for the benefit of the deposits made, and liable to pay the arrears left unpaid, by the previous owner. Had it been a case, where the petitioner obtained a new service connection, the impugned notice would certainly have been set aside. The petitioner, however, has chosen to continue the same service connection. When it intends to derive the benefit of the existing service connection, it must take upon itself the liability also. Therefore, this Court does not find any basis to interfere with the impugned notice.

On the basis of an interim order passed by this Court, the petitioner had deposited 50% of the amount demanded through the notice. Inasmuch as the notice is upheld, the petitioner is granted two (2) months time from today, to pay the balance, with interest calculated at the rate of 6% per annum.

The Writ Petition is, accordingly, disposed of. There shall be no order as to costs.

14.02.2007

JSU

[1] (1995) 2 SUPREME COURT CASES 648